

S.B. CIVIL WRIT PETITION NO. 516/1995
Superintending Geologist, Vs. Babu Lal & Ors.
Jodhpur & Anr.

DATE OF ORDER :: 15.1.2007

HON'BLE MR. GOVIND MATHUR, J.

Mr. Shyam Ladreacha, Addl. Govt. Advocate.

By this petition for writ a challenge is given to the award dated 17.11.1993 passed by the learned Labour Court, Jodhpur in industrial dispute No.100/1990 titled as Babu Lal Vs. Superintendent, Department of Mines and Geology.

In brief the facts of the case are that the appropriate government referred an industrial dispute for its adjudication to the labour court, Jodhpur in the terms as to whether termination of workman-Babulal S/o Chogaram is valid and legal, if not, then for what relief the workman is entitled?

In statement of claim the workman stated that appointment was given to him as a daily rated employee w.e.f. 4.2.1987 at the rate of Rs.9.50 per day but without assigning any reason he was terminated from services w.e.f.

1.10.1988 and that amounts retrenchment from service. According to the workman the retrenchment was effected without adhering mandatory provisions precedent to do so as prescribed under the provisions of Section 25F of the Industrial Disputes Act, 1947. In return the employer stated that appointment was given to the workman at Nana Project and on its completion his services were not required, and therefore, he was discontinued from services. It was also stated that there was no need to adhere the provisions of Section 25-F of the Act of 1947 while discontinuing the workman from service. The departmental witness Sh. N.S. Kawadia during the cross-examination stated that workman Babu Lal was in employment of department since February 1987 to the year 1988 as a semi skilled employee and he was discontinued from work on completion of survey. He further stated that on closure of survey project the department was not in need of the services of the workman, and therefore, he was discontinued from service.

The labour court after considering the entire evidence available on record held that the termination of the workman Babu Lal amounts to retrenchment from service and the same

is void being effected without adhering the provisions of Section 25F of the Act of 1947. A direction accordingly was given to reinstate the workman Babu Lal in service with all consequential benefits including back-wages and continuity in service. Being aggrieved by the award impugned dated 17.11.1993 this petition for writ is preferred. It is contended by learned counsel for the petitioner that the appointment of the petitioner was in survey project, and therefore, on its completion the department was not in need of services of the respondent and as such he was discontinued from services. It is asserted that being employed with a project there was no need to adhere the provisions of Section 25-F of the Act of 1947 while discontinuing the workman from service.

Heard counsel for the petitioner.

From reading of the award impugned it is apparent that even according to Sh. N.S. Kawadia, a departmental witness, the workman remained in service of the petitioner from the month of February 1987 to September 1988. It also appears that though the term 'project' is used by the respondents but as a matter of fact no where it is made clear that what was an

independent project with the petitioner department except regular survey work. The labour court after considering all the facts and evidence available on record reached at the conclusion that the respondent-workman was employed in the petitioner department as a workman and was retrenched without following mandatory condition precedent to do so. It may be true that the petitioner would have employed the workman during some survey but such survey work cannot be treated as an independent project. It is a routine work of the Department of Mines and Geology, and therefore, a person employed for such survey is required to be treated as an employee in the Department of Mines and Geology.

A statutory obligation was to be discharged by the petitioner to adhere the provisions of Section 25-F of the Act of 1947 before discontinuing the respondent-workman from service and being failed to do so, the labour court rightly reached at the conclusion that the retrenchment of the workman was effected illegally.

In totality of the facts and circumstances of the case no interference of this Court under Article 226 and 227 of the

Constitution of India is warranted. The writ petition is accordingly dismissed.

(GOVIND MATHUR), J.

j.goyal